

**REMARKS**

**I. Summary of the Office Action Prior to the Previous Reply**

As a result of the previous Reply, claims 1, 3-16, and 18-36 were pending in the application.

In the previous Office:

(a) The Examiner objected to the declaration because “it does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 C.F.R. 1.56.” (Office Action, page 2.)

(b) The Examiner objected to the specification because the claims do not commence on a separate sheet. The Examiner also requested that applicants update the patent application information and any other referenced application numbers in the specification.

(c) Claims 1 and 35 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nordenstrom et al. U.S. Patent No. 4,289,135 (hereinafter “Nordenstrom”).

(d) Claims 10-16, 18, 29, 30, and 36 are rejected under 35 U.S.C. § 102(e) as being anticipated by Berg et al. U.S. Patent Publication No. 2005/0177207 (hereinafter “Berg”).

(e) Claim 15, 16, 18, 29, and 36 are rejected under 35 U.S.C. § 102(b) as being anticipated by McCaughan, Jr. U.S. Patent No. 4,660,925 (hereinafter “McCaughan”).

(f) Claim 30 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over McCaughan.

(g) Claims 1-6, 8, 10-19, and 21-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 8, 10-19, and 21-36 of U.S. Patent No. 6,708,066.

(h) Claims 2-6, 17, 19-28, and 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to overcome the double patenting rejection and to include all of the limitations of the base claim and any intervening claims or upon the filing of a Terminal Disclaimer.

(i) Claims 7, 9, and 20 are objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## **II. Summary of Applicants' Supplemental Reply**

Applicants again thank the Examiner for indicating that claims 2-7, 9, 17, 19-28, and 31-34 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In this Supplemental Reply, Applicants have amended independent claim 10, and have cancelled dependent claims 19-21 and 25, and rewritten them in independent form as claims 65-68 incorporating original claim 15 upon which they were dependent. Applicants have also amended claims 22, 26, 31 and 34 to update claim dependencies. Also, claims 12 and 23 have been amended. In addition, new claims 37-64 and 69-70 have been added. These claims are comparable to original claims 1-36, but have been broadened in some respects and narrowed in others, as described in more detail below. Support for the amendments to the pending claims and the new claims can be found throughout the application. Amendments to the original claims are being made solely to expedite prosecution and do not constitute acquiescence to any of the Examiner's objections or rejections. Applicants' silence with regard to the Examiner's rejection of the dependent claims constitutes a

recognition by the Applicants that the rejections are moot based on Applicants' amendment and/or remarks relative to the independent claim from which the dependent claims depend. Applicants reserve the option to further prosecute the same or similar claims in the present or a subsequent application.

Reconsideration and prompt allowance are respectfully requested.

### **III. The Prior Art Rejections of the Method Claims**

The Examiner has rejected independent claim 15 under 35 U.S.C. § 102(e) as being anticipated by Berg. The Examiner has also rejected independent claim 15 under 35 U.S.C. § 102(b) as being anticipated by McCaughan.

Applicants continue to respectfully disagree with the contentions made by the Examiner in the Office Action in connection with these rejections. However, to facilitate allowance, Applicants have previously amended claim 15 to incorporate dependent claim 17, which the Examiner indicated to be allowable. In addition, claims 19, 20, 21 and 25 have been written in independent form as claims 65-68, respectively, since here also the Examiner indicated patentable subject matter. Nothing in this response should be interpreted as Applicants' acquiescence to, or agreement with, the Examiner's rejections under §§ 102(b) and 102(e).

Accordingly, Applicants respectfully submit that independent claims 15 and 65-68, and the claims which depend from these independent claims, are allowable.

Applicants incorporate by reference the arguments presented in the previous reply in support of the original claims in this case.

**IV. New Claims**

Applicants, by this Supplemental Reply, are adding new claims 37-64, and 69-70. These new claims, which are based substantially upon the claims originally in the application, are supported throughout the application. These new claims have been changed from the current, original claims primarily, but not exclusively, in two general ways. First, the term “cytotoxic agent” has been changed to “agent”. Second, a narrowing limitation has been added to original claim 1, corresponding to claim 37, in elements C and D. In claim 45, corresponding to original claim 10, in addition to removing the term “cytotoxic”, the “means” term has been removed and the type of reaction in element E has been modified to be a “catalyzed reaction”. In claim 49, which corresponds substantially to claim 15 of the original claims, the “reaction” has been changed to a “catalyzed reaction”. Other amendments have also been made.

It is respectfully submitted that these claims, like the original and amended claims in the application are patentable and should be passed to issue in due course.

**V. Conclusion**

It is respectfully submitted that this application is in condition for allowance. Reconsideration and prompt allowance are accordingly respectfully requested.

**AUTHORIZATION**

The Director is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219.

In the event that an Extension of Time is required, or which may be required, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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